

ADOPTION PROCEEDINGS SEMINAR

September 9, 2003

Child Protective Proceedings and Adoption Proceedings

Interplay between Child Protective Proceedings (CPP) and Adoption Proceedings as a Permanency Planning Option

- Following Termination of Parental Rights (TPR), the child continues in foster care placement and a referral is made to adoption staff for adoption planning.
- Presumption is first made that the permanency goal for the child will be adoption.
- Foster care worker continues to provide routine case management activities while an adoption worker is assigned to completed adoption related activities
- FIA contracts with private agencies for provision of foster care and adoption services. All agencies are licensed child placing agencies. In purchased service cases, FIA continues to monitor the case and to have responsibility for case management.
- The rate paid to adoption agencies is dependent upon placement of the child for adoption. Under the current contract the rate paid to the agency depends on the timeliness of the adoption following TPR.
- MCI Superintendent is designated by statute (MCL 400.201) as guardian for MCI wards with authority to consent to adoption and to make placement decisions following Foster Care Review Board appeals (MCL 712A.13b)

Role of the Lawyer – Guardian ad Litem (L-GAL) in the adoption process following TPR

- Appointment of the L-GAL continues as long as the child is under the jurisdiction of the court or of the Michigan Children's Institute (MCL 712.A.17c)
- MCL 400.204 describes the ability of the MCI Superintendent and the L-GAL to communicate with each other about "issues of commitment, placement, and permanency planning." It further provides that the Superintendent and the L-GAL "shall communicate with each other" if the child's attorney has an objection or concern.
- The L-GAL is entitled to review all relevant reports and to make recommendation about permanency planning and placement of the child. This would include reports

completed about the child which are related to adoption planning (e.g. the child assessment and adoption progress reports).

- The final decision within FIA about adoptive placement for an MCI ward rests with the MCI Superintendent. However, recommendations from the L-GAL can provide important information for consideration, especially in cases which are complicated or disputed. Frequently, when cases presented to the MCI Superintendent have competing parties requesting approval for adoption, input and recommendations from the L-GAL are actively sought out and can prove valuable in making the final decision about adoption.
- In situations where the CPP continues in one court while the Adoption proceeding will take place in another court, the L-GAL appointed in the CPP may not automatically continue that role in the Adoption proceeding because the latter is treated as a separate proceeding from the CPP. FIA will be supporting legislation which would permit filing the Adoption petition in the same court with jurisdiction in the CPP. A potential benefit of having one continuous proceeding will be continued representation of the same L-GAL.

Ongoing Court Review following Termination of Rights

- MCL 712A.19(c) requires the court to conduct 91 day review hearings “if a child remains in foster care following termination of parental rights” to review the following:
 - Appropriateness of the permanency planning goal for the child
 - Appropriateness of the child’s placement in foster care
 - Reasonable efforts being made to place the child for adoption or other permanent placement
- The Adoption and Safe Families Act (ASFA) requires that states conduct permanency planning hearings every 12 months while a child is in foster care. The requirement for these hearings following termination of parental rights continues until there is a final Order of Adoption issued by a court.
- Local practice varies regarding which representative of FIA or a private agency will be expected to attend the post-termination review (PTR) hearings. The foster care caseworker or the adoption caseworker may attend the PTR hearing to provide the court with information about the progress toward adoption. The assigned adoption worker completes regular progress reports describing steps being taken toward a goal of adoption which can be shared with the court either directly or by the foster care worker.

Closing the Child Protective Proceeding

- It does not appear to be necessary for a court with jurisdiction in the child protective proceeding to continue to conduct PTR hearings after the child has been placed in an adoptive home pursuant to an order of placement for adoption issued pursuant to MCL 710.51. The child is then under the supervision of the court with jurisdiction in the adoption proceeding. Since the child has been placed in an adoptive home, the child is no longer placed in foster care. Continued PTR hearings to review the progress toward adoption are not necessary.
- The court establishes a period of supervision to monitor the progress of the adoptive placement. The adoption agency which supported the placement of the child in the home is generally assigned the responsibility of supervising the placement and reporting to the court.
- Payment to adoption agencies under contract to FIA to provide adoption services is based upon the timeliness of the adoptive placement following termination of parental rights.
 - A **premium** rate (\$8660) will be paid to an agency that places a child in adoption within five months of the date of termination of parental rights.
 - An **enhanced** rate (\$6520) will be paid to an agency that places a child in adoption within seven months of termination of parental rights.
 - A **standard** rate (\$3860) will be paid to an agency that places a child in adoption more than seven months after termination of parental rights.
 - An **enhanced preplacement** fee and a **standard preplacement** fee will be paid to an agency when a child in its care is referred to another agency or local FIA office for adoption (rate based on time after TPR)
 - A **MARE** rate (\$9325) will be paid to a non-custodial agency that places a child registered on MARE with a recruited family.
- The local FIA office which maintains the child file does not close the file until there has been a final Order of Adoption issued pursuant to MCL 710.56.
- During the period of supervision of the adoptive placement, if the court issues an order denying the adoption pursuant to MCL 710.62, the court may return the child to foster care and re-instate the commitment to FIA. The agency would re-open the foster care case and would place the child in an appropriate placement.